

AMENDED IN ASSEMBLY MAY 22, 2003

AMENDED IN ASSEMBLY MAY 6, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

AMENDED IN ASSEMBLY APRIL 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1628**

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**Introduced by Assembly Member Frommer**

February 21, 2003

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An act to amend Section 1371.4 of the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1628, as amended, Frommer. Health care.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, regulates and licenses health care service plans by the Department of Managed Health Care and makes the willful violation of the act a crime. The act authorizes a health care service plan to require prior authorization as a prerequisite for payment for necessary medical care following stabilization of an emergency medical condition.

This bill would require a nonparticipating hospital to contact an enrollee's health care service plan to obtain the enrollee's medical record information prior to admitting the enrollee as an inpatient for poststabilization treatment following emergency treatment, or prior to transferring an enrollee to a nonparticipating hospital for poststabilization treatment following emergency treatment under specified conditions. The bill would *require a nonparticipating hospital*

*that admits an enrollee who is not clinically stabilized to contact the enrollee’s health care service plan as soon as reasonably possible after the enrollee’s medical condition is clinically stabilized. The bill would prohibit a nonparticipating hospital that is required to contact the patient’s health care service plan, and fails to do so, from billing the patient for poststabilization services.*

The bill would specify that contact made to comply with the bill’s provisions between a health care service plan or a health care service plan’s subcontractor, and a ~~noncontracting~~ *nonparticipating* hospital or ~~noncontracting~~ *nonparticipating* physician, shall not be interpreted to mean there is an implied contract between the 2 parties for purposes of reimbursement.

Because a violation of the bill would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) It is the intent of the Legislature in enacting
- 2 this act to protect patients *with health benefits coverage* from
- 3 being billed in the event of a dispute between a hospital and a
- 4 health care service plan, where the hospital has not contacted the
- 5 health care service plan to access a patient’s medical record and the
- 6 health care service plan makes the record available.
- 7 (b) It is not the Legislature’s intent to change the existing law
- 8 concerning the duties of a hospital or physician and surgeon to a
- 9 patient who presents in an emergency department of a licensed
- 10 hospital.
- 11 (c) It is not the Legislature’s intent to change existing law
- 12 concerning the responsibilities that a health care service plan and
- 13 an emergency health care provider have in relation to each other,
- 14 including the duty to reimburse for services provided.



1 SEC. 2. Section 1371.4 of the Health and Safety Code is  
2 amended to read:

3 1371.4. (a) A health care service plan, or its contracting  
4 medical providers, shall provide 24-hour access for enrollees and  
5 providers to obtain timely authorization for medically necessary  
6 care, for circumstances where the enrollee has received emergency  
7 services and care is stabilized, but the treating provider believes  
8 that the enrollee may not be discharged safely. A physician and  
9 surgeon shall be available for consultation and for resolving  
10 disputed requests for authorizations. A health care service plan  
11 that does not require prior authorization as a prerequisite for  
12 payment for necessary medical care following stabilization of an  
13 emergency medical condition or active labor need not satisfy the  
14 requirements of this subdivision.

15 (b) A health care service plan shall reimburse providers for  
16 emergency services and care provided to its enrollees, until the  
17 care results in stabilization of the enrollee, except as provided in  
18 subdivision (c). As long as federal or state law requires that  
19 emergency services and care be provided without first questioning  
20 the patient's ability to pay, a health care service plan shall not  
21 require a provider to obtain authorization prior to the provision of  
22 emergency services and care necessary to stabilize the enrollee's  
23 emergency medical condition.

24 (c) Payment for emergency services and care may be denied  
25 only if the health care service plan reasonably determines that the  
26 emergency services and care were never performed; provided that  
27 a health care service plan may deny reimbursement to a provider  
28 for a medical screening examination in cases when the plan  
29 enrollee did not require emergency services and care and the  
30 enrollee reasonably should have known that an emergency did not  
31 exist. A health care service plan may require prior authorization as  
32 a prerequisite for payment for necessary medical care following  
33 stabilization of an emergency medical condition.

34 (d) If there is a disagreement between the health care service  
35 plan and the provider regarding the need for necessary medical  
36 care, following stabilization of the enrollee, the plan shall assume  
37 responsibility for the care of the patient either by having medical  
38 personnel contracting with the plan personally take over the care  
39 of the patient within a reasonable amount of time after the  
40 disagreement, or by having another general acute care hospital



1 under contract with the plan agree to accept the transfer of the  
2 patient as provided in Section 1317.2, Section 1317.2a, or other  
3 pertinent statute. However, this requirement shall not apply to  
4 necessary medical care provided in hospitals outside the service  
5 area of the health care service plan. If the health care service plan  
6 fails to satisfy the requirements of this subdivision, further  
7 necessary care shall be deemed to have been authorized by the  
8 plan. Payment for this care may not be denied.

9 (e) A health care service plan may delegate the responsibilities  
10 enumerated in this section to the plan's contracting medical  
11 providers.

12 (f) Subdivisions (b), (c), (d), (g), and (h) shall not apply with  
13 respect to a nonprofit health care service plan that has 3,500,000  
14 enrollees and maintains a prior authorization system that includes  
15 the availability by telephone within 30 minutes of a practicing  
16 emergency department physician.

17 (g) The Department of Managed Health Care shall adopt by  
18 July 1, 1995, on an emergency basis, regulations governing  
19 instances when an enrollee requires medical care following  
20 stabilization of an emergency medical condition, including  
21 appropriate timeframes for a health care service plan to respond to  
22 requests for treatment authorization.

23 (h) The Department of Managed Health Care shall adopt, by  
24 July 1, 1999, on an emergency basis, regulations governing  
25 instances when an enrollee in the opinion of the treating provider  
26 requires necessary medical care following stabilization of an  
27 emergency medical condition, including appropriate timeframes  
28 for a health care service plan to respond to a request for treatment  
29 authorization from a treating provider who has a contract with a  
30 plan.

31 (i) The definitions set forth in Section 1317.1 shall control the  
32 construction of this section.

33 (j) (1) A hospital shall contact an enrollee's health care service  
34 plan to obtain the enrollee's medical record information prior to  
35 admitting the enrollee for poststabilization care as an inpatient or  
36 prior to transferring the ~~patient~~ enrollee for poststabilization care  
37 to another hospital, if all of the following apply:

38 (A) The hospital is able to obtain the name of the enrollee's  
39 health care service plan.



1 (B) The hospital is a nonparticipating California hospital with  
2 a nonparticipating physician that wants to admit the enrollee as an  
3 inpatient in a nonparticipating hospital ~~in California~~ for  
4 poststabilization care following emergency services, or wants to  
5 transfer the enrollee to a nonparticipating hospital for  
6 poststabilization care following emergency services.

7 (C) The health care service plan has a practicing emergency  
8 physician who is available within 30 minutes, who has access to  
9 the enrollee's medical records, and who can transmit the records  
10 to the provider via telephone, facsimile, or e-mail.

11 (D) The health care service plan can provide authorization for  
12 poststabilization care and obtain information concerning cost  
13 sharing that the nonparticipating hospital may charge the enrollee  
14 under the enrollee's coverage.

15 (2) A hospital required to contact an enrollee's health care  
16 service plan regarding authorization for poststabilization care  
17 pursuant to this subdivision shall do so as soon as reasonably  
18 possible, but not until the enrollee's medical condition is clinically  
19 stabilized, as determined by the attending physician.

20 (3) If a hospital required to contact an enrollee's health care  
21 service plan regarding authorization for poststabilization care  
22 pursuant to this subdivision fails to do so, the hospital ~~may~~ shall  
23 not bill the enrollee for medical services provided following  
24 stabilization. *Nothing in this subdivision shall prohibit a*  
25 *nonparticipating hospital from billing a health care service plan*  
26 *for care provided prior to the enrollee being stabilized as*  
27 *documented in the enrollee's clinical record, including care*  
28 *provided pursuant to admission to the nonparticipating hospital*  
29 *prior to the enrollee's being clinically stabilized. Nothing in this*  
30 *subdivision shall require a nonparticipating hospital to request*  
31 *prior authorization for admission of an enrollee who is not*  
32 *clinically stabilized prior to admission into the nonparticipating*  
33 *hospital.*

34 (4) *If a nonparticipating hospital admits an enrollee who is not*  
35 *clinically stabilized into the hospital, the nonparticipating*  
36 *hospital shall contact the enrollee's health care service plan as*  
37 *soon as reasonably possible after the enrollee's medical condition*  
38 *is clinically stabilized, as determined by the attending physician.*  
39 *If a nonparticipating hospital does not contact the enrollee's*  
40 *health care service plan regarding authorization of*



1 *poststabilization care once the enrollee is clinically stabilized, the*  
2 *hospital shall not bill the enrollee for any medical services*  
3 *provided following stabilization.*

4 ~~(4)~~

5 (5) Paragraphs (1), (2), ~~and~~ (3), *and* (4) do not apply to  
6 physicians providing medical services at the hospital.

7 ~~(5)~~

8 (6) For purposes of this subdivision, a hospital is required to  
9 make not more than one telephone call to the number provided in  
10 advance by the health care service plan.

11 ~~(6)~~

12 (7) Contact between a health care service plan or a  
13 subcontractor of a health care service plan, and a ~~noncontracting~~  
14 *nonparticipating* hospital or ~~noncontracting~~ *nonparticipating*  
15 physician, that is made to comply with the provisions of this article  
16 shall not be interpreted to mean there is an implied contract  
17 between the two parties for purposes of reimbursement.

18 ~~SEC. 2.~~

19 SEC. 3. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the penalty  
24 for a crime or infraction, within the meaning of Section 17556 of  
25 the Government Code, or changes the definition of a crime within  
26 the meaning of Section 6 of Article XIII B of the California  
27 Constitution.

